

United States Senate  
WASHINGTON, DC 20510

COMMITTEES:  
BANKING  
DEMOCRATIC POLICY & COMMUNICATIONS  
FINANCE  
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RULES

October 19, 2016

The Honorable Thomas Wheeler  
Chairman  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington DC 20554

**In the Matter of Connect America Fund, ETC Annual Reports and Certifications, Rural  
Broadband Experiments**

**WC Docket Nos. 10-90 et al.**

Dear Chairman Wheeler:

I write today to urge you to give swift consideration to New York State's Petition for Expedited Waiver, filed October 12, 2016. Earlier this year, I urged you, in considering how to allocate unclaimed Connect America Fund (CAF) money, to ensure that money be allocated to the states in which the funding was originally awarded. Specifically, I was concerned that my constituents in New York would be penalized by Verizon's decision not to claim its award of \$170 million to deploy broadband throughout my state. The waiver New York requests would alleviate this concern by leveraging the State's ambitious broadband program to ensure that affected New York communities receive the benefits of this funding. It would also effectively align both State and private funds to promote broadband deployment, a goal shared by both Congress and the Commission.

The funding allocated under Phase II of the CAF in 2015 was intended to subsidize the construction of high-speed broadband networks, at least 10 Mbps, in unserved and underserved areas throughout the United States. I was happy to work with you and your predecessor to ensure that the CAF funding was structured fairly and effectively. Due to its large, unserved population, New York made up a considerable chunk of those awards, receiving \$49 million in annual CAF funding for six years. Three of the four price cap companies accepted their award and have been successfully deploying broadband in New York. However, Verizon declined to accept the CAF funds, which amounted to over \$28 million annually. As a result, the territories served by Verizon, including parts of the North Country, Capital, and Western regions, have been denied the opportunity to receive high-speed broadband supported by CAF funds.

The Commission's original proposal for these unclaimed funds would have presented particular timing and funding challenges for New York, given the size of the Verizon footprint and the State's ongoing broadband auction. After hearing concerns from my office and others, the Commission issued the CAF Further Notice on May 25, 2016, in which it recognized that the Commission retained a "universal service obligation to connect consumers in areas that would have been reached had the offer been accepted." Unfortunately, none of the specific proposals the Commission floated would have addressed New York's unique challenges.

New York's request for a waiver, however, would allow the Commission to meet these obligations, would serve the public interest, and would be consistent with the intent of Congress and the Commission. The State of New York has invested considerably in broadband deployment, and has designed its own competitive reverse auction of State funds. The State would like to leverage the federal funds that were originally allocated to New York in order to further promote broadband deployment in the Verizon territories.

The waiver New York seeks would be consistent with the intent of both Congress and the Commission in their shared goal of promoting broadband deployment, and indeed would serve as a model for other states. Both Congress and the Commission have embraced the goal of universal broadband deployment. That goal has been the impetus for various federal legislation, including the Telecommunications Act of 1996, the American Recovery and Reinvestment Act of 2009, and myriad provisions of appropriations bills over the last several years. At the instruction of Congress, the Commission undertook the transformation of the Universal Service Fund into the CAF. CAF II allocated funds to price cap carriers because it recognized that there were households in the footprint of those carriers who did not have broadband. It was not the Commission's intent that those consumers be penalized by their carrier choosing not to accept federal funds. The program New York has proposed would allow the Commission's deployment intent to be realized and would maximize the efficient allocation of federal funding by incentivizing not only private spending but state spending as well. This will result in greater broadband deployment than would be possible without such a three-way partnership.

I very much appreciate the thoughtful and sincere manner in which the Commission has approached the challenge of allocating CAF money both fairly and efficiently. I am pleased that an innovative path forward has been identified that is workable for both the State and the Commission. I look forward to continuing to work with you on this important issue.

Sincerely,



Charles E. Schumer  
United States Senator